

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Stephanie Mleczkowski	Team: Team # 3	CCRB Case #: 201500201	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 05/08/2014 9:18 AM	Location of Incident: § 87(2)(b)	Precinct: 41	18 Mo. SOL 11/8/2015	EO SOL 11/8/2015	
Date/Time CV Reported Wed, 07/16/2014 1:25 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Wed, 07/16/2014 1:25 PM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 David Bell	07893	918576	DB BX
2. SDS Daniel Mccarron	02210	884320	DB BX

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. Unknown John Senzamichi		907314	DBBX

Officer(s)	Allegation	Investigator Recommendation
A.SDS Daniel Mccarron	Abuse: Sgt. Daniel Mccarron entered § 87(2)(b) in the Bronx.	§ 87(2)(b)
B.DT3 David Bell	Abuse: Det. David Bell entered § 87(2)(b) in the Bronx.	§ 87(2)(b)

Case Summary

On May 8, 2014 at 9:18 a.m., Det. David Bell and Det. John Senzamichi of the Detective Bureau Bronx arrived at § 87(2)(b)'s apartment, located at § 87(2)(b) in the Bronx, in order to address an open I-card for § 87(2)(b). Sgt. Daniel McCarron of the Detective Bureau Bronx subsequently arrived and solely Sgt. McCarron and Det. Bell then entered § 87(2)(b)'s apartment and arrested § 87(2)(b) (**Allegations A and B**).

Mediation, Civil and Criminal Histories

- As of December 23, 2014, which is past the 90-day filing deadline, § 87(2)(b) had not filed a notice of claim in regards to this incident (encl. 8A).
- § 87(2)(b) alleged police misconduct from multiple incident dates in her interview, § 87(2)(b). Because § 87(2)(b) had multiple open criminal cases in regards to those incidents, mediation was not offered in this case.
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Civilian and Officer CCRB Histories

- Sgt. McCarron has been a member of the NYPD for thirty years, has had twenty-two CCRB allegations involving thirteen cases with five substantiated allegations (encl. 2A). Case number 200710258 resulted in him being found guilty in an NYPD trial for supervising an entry; however the NYPD did not take any disciplinary action against him. In case number 201300576, an allegation of supervising an entry was unsubstantiated, due to conflicting officer and civilian testimony. § 87(2)(g) solely an I-card was in effect for the victim.
- Det. Bell has been a member of the NYPD for eighteen years and has had two CCRB allegations, which were not substantiated (encl. 2B). § 87(2)(g)

NYPD Documentation

Complaint Number/I-card § 87(2)(b)

On May 7, 2014, at approximately 7:05 p.m., Det. Anthony Velez of the 41st Precinct Detective Squad prepared an I-card for § 87(2)(b) which established probable cause to arrest her for violating § 87(2)(b) (encl. 6K-6L).

May 8, 2014, Detective Bureau Bronx Roll Call

The aforementioned documentation notes that Det. Senzamichi, Sgt. McCarron and Det. Bell worked from 3 a.m. to 11 a.m. and were assigned to Special Operations (encl. 6P).

Event Summary § 87(2)(b)

The aforementioned documentation notes that on May 8, 2014 at 10:03 a.m., a female caller dialed 911 and reported that she was being harassed by a detective while at her residence (encl. 6S-SV).

911 Communications CD

The first audio recording within the aforementioned documentation contains the following: In the beginning of the recording, a woman is heard speaking with a man in the background, before she is connected to the 911 operator. The woman had a frazzled demeanor and repeatedly stated that she had multiple harassment complaints against the 41st Precinct. At the 1:45 mark, the woman states to the man that she is not going with him. At the 2:10 mark the woman is screaming at the man and eventually states that she had an altercation with a woman on April 2nd. At the 2:38 second mark, the woman repeatedly asks the man to leave her apartment. At the 2:58 mark, the man threatens to bring his supervisor. Finally, at the 3:27 mark the woman states "Go get your fucking hands on whoever, I don't fucking think so. All because of her father."

In a second recording on the 911 communications disk, the same woman complained that detectives were harassing her because of a woman against whom she has an open harassment complaint. At the 1:04 mark, the woman states "Excuse me, what's your name? Senzamichi? Thank you." At the 2:20 mark, the woman states "I haven't had no contact with her." The woman begins to scream and the man states to her that she is under arrest. The woman screams, refuting the arrest and asks why she is being arrested. At the 2:51 mark, the man tells the woman to put her shoes on.

Arrest Report

§ 87(2)(b)'s arrest report documents that she was arrested on § 87(2)(b) within 1035 Longwood Avenue in the Bronx by Det. Frank Diaz of the 41st Precinct Detective Squad. § 87(2)(b) was charged with § 87(2)(b) (encl. 6N-6O).

Confirmation of Det. Senzamichi's retirement

The NYPD Monitoring and Analysis Section confirmed that Det. Senzamichi retired from the NYPD on October 3, 2014 (encl. 9I)

Civilian Statement

Complainant/Victim: § 87(2)(b) (Encl. 3C-3G)

- § 87(2)(b) is a § 87(2)(b)
- Det. Bell accused § 87(2)(b) of throwing a brick through an individual's window on May 6, 2014, which she denied. The officers never asked § 87(2)(b) for her name or identification.
- Det. Bell requested that § 87(2)(b) come with him in order to go to a police precinct, which she declined, stating "I'm not fucking going with you" and went to close her door. However, Det. Bell stuck his foot between the door panel and door so that she was unable to close it.
- § 87(2)(b) then called 911, where she was connected to the NYPD Internal Affairs Bureau and filed her complaint with an officer. Simultaneously, Det. Bell went on his radio and requested an additional officer. Approximately two to five minutes later, Sgt. McCarron arrived at the location.
- Sgt. McCarron immediately pushed opened § 87(2)(b)'s apartment door and pushed her cell phone out of her hand, causing it to fall onto the floor. Sgt. McCarron entered her bedroom for approximately one minute, where he solely looked at a wall and turned on the light.

- Suddenly, Det. Bell entered her apartment, in her kitchen area and placed § 87(2)(b)'s arms behind her back and Sgt. McCarron handcuffed her. § 87(2)(b) was subsequently transported to the 41st Precinct.
- § 87(2)(b) had no verbal interaction with Det. Senzamichi and he never entered her apartment. There were no civilian witnesses of this incident and there are no video cameras within the vicinity of § 87(2)(b)'s apartment.

NYPD Statements

Subject Officer: DETECTIVE DAVID BELL (encl. 4A-4E)

- Det. Bell is a white man who was § 87(2)(b) at the time of the incident.
- Det. Bell and Det. Senzamichi arrived at § 87(2)(b)'s residence, and § 87(2)(b) answered the door and verbally confirmed her identity. Det. Bell primarily spoke with § 87(2)(b) and informed her that she had an active I-card and that she was wanted by the 41st Precinct Detective Squad for § 87(2)(b).
- While the detectives stood in the doorway of § 87(2)(b)'s apartment she became very loud and irate, including stating that she was not going to be arrested. § 87(2)(b) did not close her door at any point while speaking with the detectives. Det. Bell never placed his foot between the door and doorframe of her apartment, preventing her from closing her door.
- Det. Bell then called his supervisor, Sgt. McCarron, who momentarily arrived. Sgt. McCarron reiterated to § 87(2)(b) the information that Det. Bell had initially provided to her, however § 87(2)(b) declined to be arrested.
- Sgt. McCarron directed Det. Bell to handcuff § 87(2)(b) and Sgt. McCarron then entered § 87(2)(b)'s apartment, followed by Det. Bell and Det. Senzamichi. § 87(2)(b)'s door was open and she did not grant the officers permission to enter her apartment. Det. Bell did not hear if Sgt. McCarron asked § 87(2)(b) if he could enter her apartment.
- The officers remained within a small entranceway or hallway immediately within the apartment. Det. Bell did not enter, nor did he see any officers, enter § 87(2)(b)'s bedroom.
- Det. Bell was eventually able to handcuff § 87(2)(b) which she resisted by moving her arms, turning and twisting her body. Det. Bell sustained a sprain to his left forearm as a result of his struggle with § 87(2)(b).

Subject Officer: SERGEANT DANIEL MCCARRON (encl. 5A-5)

- Sgt. McCarron is a white man who was § 87(2)(b) at the time of the incident. He is 6'3" tall, weighs two hundred and seventy pounds, with brown hair and blue eyes.
- Sgt. McCarron was within his command when he received a telephone call from Det. Senzamichi, requesting that he arrive at the incident location, with which he complied.
- Det. Bell was within the immediate vestibule area of § 87(2)(b)'s apartment, near the doorway, while Det. Senzamichi was outside of the apartment. § 87(2)(b)'s door was open when he arrived; Sgt. McCarron did not push the door open.
- § 87(2)(b) requested to speak with a supervisor and Sgt. McCarron then entered her apartment and identified himself as a supervisor. § 87(2)(b) did not state that Sgt. McCarron could not enter her apartment. Det. Senzamichi then followed and stood behind Sgt. McCarron, within the immediate vestibule area. Neither Sgt. McCarron nor the detectives entered § 87(2)(b)'s bedroom.

- Sgt. McCarron informed § 87(2)(b) that she was being taken into custody because she violated a valid order of protection against her neighbor and because there was an I-card in effect for her.
- § 87(2)(b) then exited the apartment, where Det. Bell handcuffed her.

Finding and Recommendations

Explanation of Subject Officer Identification

Det. Bell and Sgt. McCarron admitted to interacting with § 87(2)(b)

Recommendations

Allegation A – Abuse of Authority: Sgt. Daniel McCarron entered § 87(2)(b) in the Bronx.

Allegation B – Abuse of Authority: Det. David Bell entered § 87(2)(b) in the Bronx.

It is undisputed that there was an active I-card for § 87(2)(b) indicating that there was probable cause to arrest her. It is also undisputed that Det. Bell and Sgt. McCarron did not have a warrant to enter § 87(2)(b), § 87(2)(g)

§ 87(2)(b) reported that when she declined to come with Det. Bell to the 41st Precinct in connection with a property damage complaint that was filed against her, Det. Bell stuck his foot between the door panel and door so that she was unable to close it. § 87(2)(b) further alleged that when Sgt. McCarron arrived at her apartment, he immediately pushed opened § 87(2)(b)'s apartment door and entered her apartment, followed by Det. Bell.

Det. Bell denied sticking his foot between the door panel and door; Det. Bell noted that § 87(2)(b) did not try to close her door at any point. Det. Bell stated that he followed Sgt. McCarron into § 87(2)(b)'s apartment. Det. Bell stated that § 87(2)(b) did not provide the officers consent to enter her apartment. Sgt. McCarron stated that Det. Bell was within the vestibule area of § 87(2)(b)'s apartment when he arrived. Sgt. McCarron stated that § 87(2)(b) requested to speak with a supervisor, which prompted him to enter the apartment. Sgt. McCarron noted that § 87(2)(b) did not dispute the officers' entry. Det. Senzamichi could not be interviewed at the CCRB because he is retired from the service as of October 3, 2014.

People v. Reese, 799 N.Y.S.2d 163 (Dist. Ct. Suffolk Cty. 2004) (encl. 1G-1J) states that a private residence may not be entered without a warrant, at least in the absence of exigent circumstances, even when probable cause is present. People v. Farquharson, 901 N.Y.S.2d 901 (Sup. Ct. Bronx Cty. 2009) (encl. 1A-1F) states, "The threshold of the door may not be reasonably be crossed without a warrant."

During the 911 Communications CD, a woman repeatedly asks an individual to leave her apartment, § 87(2)(g)

§ 87(2)(g)

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§ 87(2)(g)

Team: _____

Investigator:	_____	_____	_____
	Signature	Print	Date

Supervisor:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date

Reviewer:	_____	_____	_____
	Title/Signature	Print	Date